

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 2061

By: Representative Hammer

For An Act To Be Entitled

AN ACT TO MODERNIZE THE FIRE RATING SYSTEM IN
ARKANSAS; TO ESTABLISH THE ARKANSAS FIRE RATING
BUREAU ACT; AND FOR OTHER PURPOSES.

Subtitle

TO MODERNIZE THE FIRE RATING SYSTEM IN
ARKANSAS; AND TO ESTABLISH THE ARKANSAS
FIRE RATING BUREAU ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) A competitive market for insurance products is vital to Arkansans, and active competition in the insurance marketplace produces the fairest and lowest rates over any given period of time;

(2) Open and transparent regulation of the insurance industry and insurance rates that is helpful to consumers in purchasing and utilizing insurance coverage will assist consumers in purchasing, maintaining, and utilizing their insurance coverages wisely;

(3) Vendors of statistical, actuarial, and underwriting information for and about the property casualty insurance industry provide projections of average future claim payments and loss adjustment expenses for various lines of insurance and classifications of policyholders; and

(4) Insurance companies use the loss costs to develop insurance rates for insurance policies.

(b) It is the intent of the General Assembly to assist consumers by



providing them the information and tools necessary to be informed and educated consumers of insurance coverage.

SECTION 2. Arkansas Code § 23-67-218, concerning records and reports used in the regulation of insurance rates, is amended to add an additional subsection to read as follows:

(c) The commissioner may review the rates and other information gathered, compiled, and reported to the commissioner from the Arkansas Fire Rating Bureau under the Arkansas Fire Rating Bureau Act, § 23-67-701 et seq.

SECTION 3. Arkansas Code Title 23, Chapter 67, is amended to add an additional subchapter to read as follows:

Subchapter 7 – Arkansas Fire Rating Bureau Act

23-67-701. Title.

This subchapter shall be known and may be cited as the "Arkansas Fire Rating Bureau Act".

23-67-702. Definitions.

As used in this subchapter:

(1) "Insurer" means:

(A) An entity that provides fire insurance in this state, including without limitation an insurance company; or

(B) A person, firm, association, corporation, or any other entity operating a property and casualty insurance business providing fire insurance benefits subject to state insurance regulation; and

(2) "User fees" means the amount an insurer is responsible for as the insurer's proportion of the expenses for the organization, maintenance, and operation of the Arkansas Fire Rating Bureau.

23-67-703. Arkansas Fire Rating Bureau – Creation – Organization.

(a) There is created a legal entity to be known as the "Arkansas Fire Rating Bureau".

(b)(1) The bureau may organize and operate as a corporation, association, or a limited partnership and provide for any officers, board of directors, and bylaws as necessary.

(2)(A) Except to the extent provided by this subchapter, the bureau is exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

(B) The bureau shall adopt policies, procedures, and rules to implement its obligations under this subchapter pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1) Beginning January 1, 2018, an insurer may become a member of the bureau.

(2) Each insurer that is a member of the bureau shall pay the insurer's proportion of the expenses for the organization, maintenance, and operation of the bureau.

(d) The bureau shall employ residents of this state who are skilled in the business of:

- (1) Fire insurance rating;
- (2) Fire hazard;
- (3) Fire protection engineering; and
- (4) Fire insurance inspection.

23-67-704. Participation in Arkansas Fire Rating Bureau – Expenses – Operations.

(a) An insurer may be a member of the Arkansas Fire Rating Bureau.

(b)(1) The expense for the organization, maintenance, and operation of the bureau shall be paid by the members of the bureau through assessment of user fees and annual assessments.

(2) A bureau member shall pay user fees that include the bureau member's proportion of the expenses of organization, maintenance, and operation of the bureau as provided under this section and § 23-67-703.

(3) Expenses for the bureau shall not be paid by the state or any county or municipality in this state.

(c) An expense of the bureau that is not covered by user fees shall be shared by all bureau members through an annual assessment as established by the bureau with due consideration given to the extent of utilization of the services of the bureau.

(d)(1) If a bureau member does not pay its proportion of the expense within thirty (30) days after the amount is due, the bureau may refuse to furnish services of the bureau to the delinquent bureau member.

(2) The bureau shall report the delinquency of the bureau member to the Insurance Commissioner, who for the delinquency may suspend or revoke the license of the delinquent bureau member.

(e) The bureau shall establish reasonable fees for any service offered by the bureau that is sufficient to maintain and operate the bureau under this subchapter.

(f) As a condition of being a member of the bureau, an insurer shall pay the user fees and assessments, submit the reports, and provide the information required by the commissioner to implement this subchapter.

23-67-705. Failure to comply – Penalties under the Arkansas Insurance Code applicable.

If an insurer that is a member of the Arkansas Fire Rating Bureau refuses or neglects to comply with this subchapter or with any order or ruling made by the Insurance Commissioner under this subchapter, the bureau member is subject to any penalties under the Arkansas Insurance Code.

23-67-706. User fees and assessments.

The Arkansas Fire Rating Bureau shall collect user fees and assessments from insurers that are members of the bureau that are sufficient to enable the bureau to:

- (1) Inspect every risk specially rated;
- (2) Make a written survey of the risks specially rated;
- (3) Pay the salary or expense of its officers and employees; and
- (4) Cover any other expense that may be necessary to enable the bureau to comply with and enforce this subchapter.

23-67-707. Arkansas Fire Rating Bureau – Requirement to inspect every risk rated.

(a) The Arkansas Fire Rating Bureau, through bureau members and employees, shall inspect every risk specifically rated by it on schedule and make a written survey of the risk that shall be filed as a permanent record in the bureau.

(b) A copy of the written survey shall be furnished to an owner or the Insurance Commissioner upon request.

23-67-708. Arkansas Fire Rating Bureau – Agreement for placing insurance prohibited.

The Arkansas Fire Rating Bureau, or any of its officers or employees, shall not make a contract or agreement with any person, insurer, or insured, that fire insurance shall be written or placed with a particular insurer.

23-67-709. Arkansas Fire Rating Bureau – Required information.

(a) The Arkansas Fire Rating Bureau is required to provide any information requested by the Insurance Commissioner concerning the bureau's organization, maintenance, operation, or any other matter connected with transactions of the bureau.

(b) The commissioner may require that the bureau provide any information the commissioner deems necessary.

23-67-710. Examination of Arkansas Fire Rating Bureau – Reports.

(a) The Insurance Commissioner shall have the power to examine the Arkansas Fire Rating Bureau as often as the commissioner deems necessary at the expense of the bureau.

(b) The commissioner shall:

(1) Report his or her findings in writing;

(2) Include his or her findings as part of the annual report required under § 23-63-216; and

(3) Provide a copy of the report described in subdivision (b)(1) of this section to the Attorney General.

23-67-711. Arkansas Fire Rating Bureau – Rate discrimination prohibited.

The Arkansas Fire Rating Bureau is prohibited from recommending any rate for fire insurance on property in this state that:

(1) Discriminates against the same territorial classification between risks in the application of similar charges and credits; or

(2) Discriminates unfairly between risks of essentially the same hazard and having substantially the same degree of protection against fire.

23-67-712. Factors to be considered when rating fire district – Determination of overall fire rating.

(a) When rating a municipality or fire district, including evaluations of a rural or volunteer fire department, the Arkansas Fire Rating Bureau shall consider the mileage, condition, and maintenance of the fire trucks rather than the age of the fire trucks.

(b)(1) For the purpose of grading municipalities or fire districts, including rural and volunteer fire departments, and awarding credits that are considered in determining an overall fire rating based on the condition of fire trucks of a municipality or fire district, including a rural and volunteer fire department, the bureau shall publish guidelines for use in the grading of fire trucks on or before January 30 of each calendar year that the bureau will apply the guidelines.

(2)(A) The guidelines described in subdivision (b)(1) of this section shall be published and made available to each municipality and fire district, including rural and volunteer fire departments, on the bureau's website no later than January 30 of the calendar year during which the bureau will apply the guidelines.

(B) If a fire truck in a municipality or fire district, including a rural and volunteer fire department, satisfies the guidelines under subdivision (b)(1) of this section, then the bureau shall not recommend the replacement of the fire truck before the next grading process.

23-67-713. Rules.

The Insurance Commissioner shall promulgate rules to implement this subchapter.

SECTION 4. Arkansas Code § 23-88-104 is amended to read as follows:

23-88-104. Fire protection to be considered in property insurance rating plans.

When making a rate or rule filing, an insurer shall include an impact statement concerning the filing's effect on fire protection in the affected area unless the insurer utilizes a public protection classification system maintained by a licensed advisory organization or the Arkansas Fire Rating Bureau under the Arkansas Fire Rating Bureau Act, § 23-67-701 et seq.